

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

ROTHSCHILD BROADCAST	§	
DISTRIBUTION SYSTEMS, LLC	§	
	§	
Plaintiff,	§	Case No:
	§	
vs.	§	PATENT CASE
	§	
MUBI, INC.	§	JURY TRIAL DEMANDED
	§	
Defendant.	§	
_____	§	

COMPLAINT

Plaintiff Rothschild Broadcast Distribution Systems, LLC (“Plaintiff” or “RBDS”) files this Complaint against MUBI, Inc. (“Defendant” or “MUBI”) for infringement of United States Patent No. 8,856,221 (hereinafter “the ‘221 Patent”).

PARTIES AND JURISDICTION

1. This is an action for patent infringement under Title 35 of the United States Code. Plaintiff is seeking injunctive relief as well as damages.
2. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Patents) because this is a civil action for patent infringement arising under the United States patent statutes.
3. Plaintiff is a Texas limited liability company with an office at 1400 Preston Road, Suite 400, Plano, Texas 75093.
4. On information and belief, Defendant is a Delaware corporation with its principal place of business at 215 Park Ave. South, FL 12, Suite #12, New York, NY 10003. On information and belief, Defendant can be served with process by serving its registered agent for service of process, National Registered Agents, Inc., 818 W. Seventh St., Suite 930, Los Angeles,

CA 90017.

5. On information and belief, this Court has personal jurisdiction over Defendant because Defendant has committed, and continues to commit, acts of infringement in this District, has conducted business in this District, and/or has engaged in continuous and systematic activities in this District.

6. On information and belief, Defendant's instrumentalities that are alleged herein to infringe were and continue to be used, imported, offered for sale, and/or sold in this District.

VENUE

7. Venue is proper in this District pursuant to 28 U.S.C. § 1400(b) because Defendant is deemed to be a resident of this District. Alternatively, acts of infringement are occurring in this District and Defendant has a regular and established place of business in this District.

COUNT I **(INFRINGEMENT OF UNITED STATES PATENT NO 8,856,221)**

8. Plaintiff incorporates paragraphs 1-7 herein by reference.

9. This cause of action arises under the patent laws of the United States and, in particular, under 35 U.S.C. §§ 271, et seq.

10. Plaintiff is the owner by assignment of the '221 Patent with sole rights to enforce the '221 Patent and sue infringers.

11. A copy of the '221 Patent, titled "System and Method for Storing Broadcast Content in a Cloud-based Computing Environment," is attached hereto as Exhibit A.

12. The '221 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

13. Upon information and belief, Defendant has infringed and continues to infringe

one or more claims, including at least Claim 1, of the ‘221 Patent by making, using, importing, selling, and/or offering for media content storage and delivery systems and services covered by one or more claims of the ‘221 Patent.

14. Defendant sells, offers to sell, and/or uses media content storage and delivery systems and services, including, without limitation, the MUBI system and app, and any similar products (“Product”), which infringes at least Claim 1 of the ‘221 Patent.

15. The Product provides a system for storing (e.g. storing to mobile device) media content (e.g. movies) and delivering requested media content (e.g. movies) to a consumer device (e.g. mobile device). Certain aspects of these elements are illustrated in the screen shots below and/or in screen shots provided in connection with other allegations herein.

Get comfortable and **stream movies** on the big screen at home or **download to your mobile devices** for when you're on the go; you won't even notice the passenger on the train trying to watch Dogtooth over your shoulder.

<https://play.google.com/store/apps/details?id=com.mubi>

“Our video streaming infrastructure consists of several dozen media servers at key Internet hubs around the world. Every request from a user on a video stream is automatically routed to the most reliable server to which the ISP can connect. As a navigation system based on real-time traffic data, Cedexis knows when to suggest an alternative route over the public Internet to ensure effective distribution.”

– Alexander McWilliam, Vice President of Engineering at MUBI

<https://www.cedexis.com/blog/mubi-creating-a-high-performance-video-streaming-infrastructure-using-cedexis-and-low-cost-clouds/>

16. The Product necessarily includes at least one server for hosting media content for customers. For example, the Product necessarily includes at least one server to store movies.

17. The at least one server necessarily includes a receiver to receive request messages

from customers. On information and belief, customers may send messages to the server (e.g., via the Internet or otherwise). On information and belief, a message received from a customer includes media data indicating the media content that the customer wishes to view. Customers send their media storage and delivery selections to Defendant's system and the transmission of those messages is accomplished over the Internet. On information and belief, the media data received by Defendant's server(s) also includes a consumer device identifier. Also, on information and belief, access to certain content is based upon a customer's subscription, and thus a customer's device must be associated with a customer in order for the device's access to content to be dictated by a customer's subscription status. The Product accomplishes the foregoing using a customer subscription interface which allows a user to enter customer identification information (e.g. account information). Certain aspects of these elements are illustrated in the screen shots below and/or in screen shots provided in connection with other allegations herein.

The screenshot displays the Mubi login page. At the top, there is a green logo on the left, a 'LOG IN' button in the center, and a close icon (X) on the right. Below the logo is a blue button that says 'Continue with Facebook'. Underneath this is the word 'or'. A red rectangular box highlights the login form, which contains an 'Email' input field, a 'Password' input field, a checkbox labeled 'Remember me?', and a link labeled 'Forgot password?'. Below the login form is a green 'LOG IN' button. At the bottom of the form area, it says 'New to MUBI? Sign up now'. The URL 'https://mubi.com/' is shown at the bottom of the page.

Security

MUBI takes appropriate precautions to protect our users' information. Your **account information** is located on a secured server behind a firewall. When you enter sensitive information (such as credit card number or your password), we encrypt that information using secure socket layer technology (SSL). (To learn more about SSL, go to http://en.wikipedia.org/wiki/Secure_Sockets_Layer). Because email and instant messaging are not recognized as secure communications, we request that you not send private information to us by email or instant messaging services.

https://mubi.com/privacy_policy

BASIC

Free

Can't watch films**Database of 150,000 films**

Rate and review films
Create film lists
Discuss film reviews
In depth content about films

Notebook

Read our daily film publication

SIGN UP FOR BASIC

MONTHLY / YEARLY

€500.00 a month / €4,200.00 a year

Watch films

All Now Showing films
All MUBI Specials
All Exclusive films
Download films on mobile apps
Watch different curations abroad

Database of 150,000 films

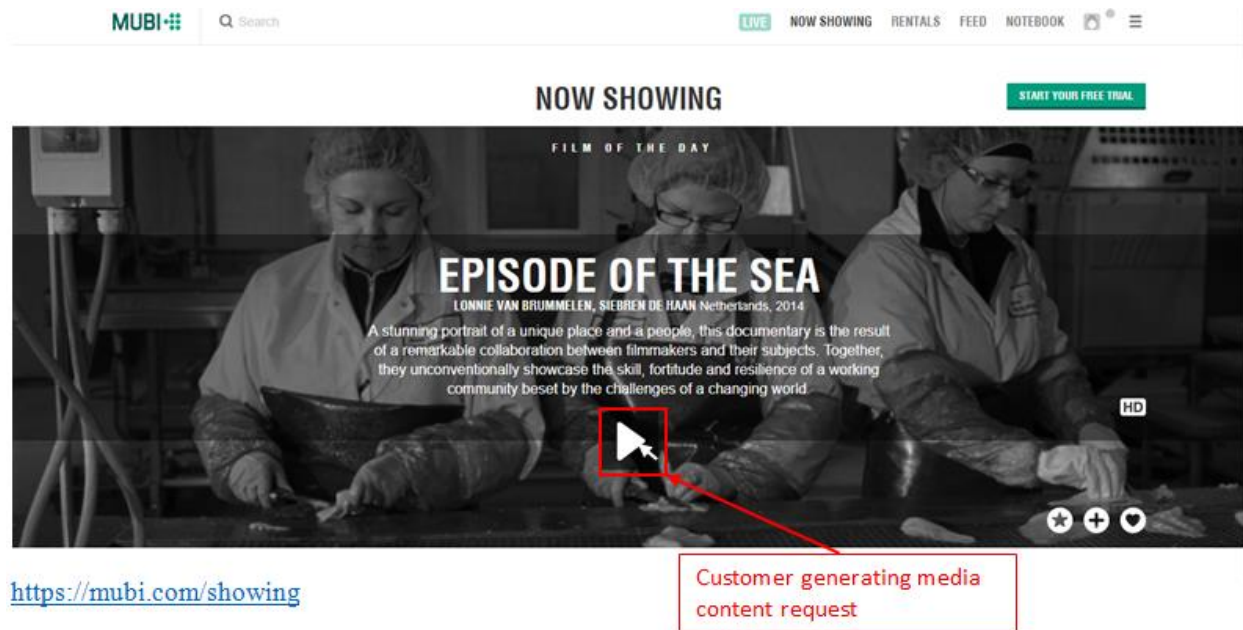
Rate and review films
Create film lists
Discuss film reviews
In depth content about films

Notebook

Read our daily film publication

PICK A PLAN

<https://mubi.com/memberships>



18. The Product necessarily includes a processor to determine whether the consumer device identifier corresponds to the registered consumer device (e.g., the server must authenticate a user's credentials to ensure that the credentials match those registered with MUBI website registered user database to access movies on MUBI website). On information and belief, a user must have to sign up or login first using his credentials to view media content on MUBI website/mobile application. Certain aspects of these elements are illustrated in the screen shot below and/or in screen shots provided in connection with other allegations herein.

GET STARTED

- Download the app for free, sign up and start enjoying great films immediately on your Android phone, tablet or TV.
- Download films to your MUBI app on mobile and save for offline watching - Chromecast supported.
- Favourite, rate, review, follow and share films with your friends – Let everyone know that your favourite director is Stanley Kubrick.

<https://play.google.com/store/apps/details?id=com.mubi>

Security

MUBI takes appropriate precautions to protect our users' information. Your account information is located on a secured server behind a firewall. When you enter sensitive information (such as credit card number or your password), we encrypt that information using secure socket layer technology (SSL). (To learn more about SSL, go to http://en.wikipedia.org/wiki/Secure_Sockets_Layer). Because email and instant messaging are not recognized as secure communications, we request that you not send private information to us by email or instant messaging services.

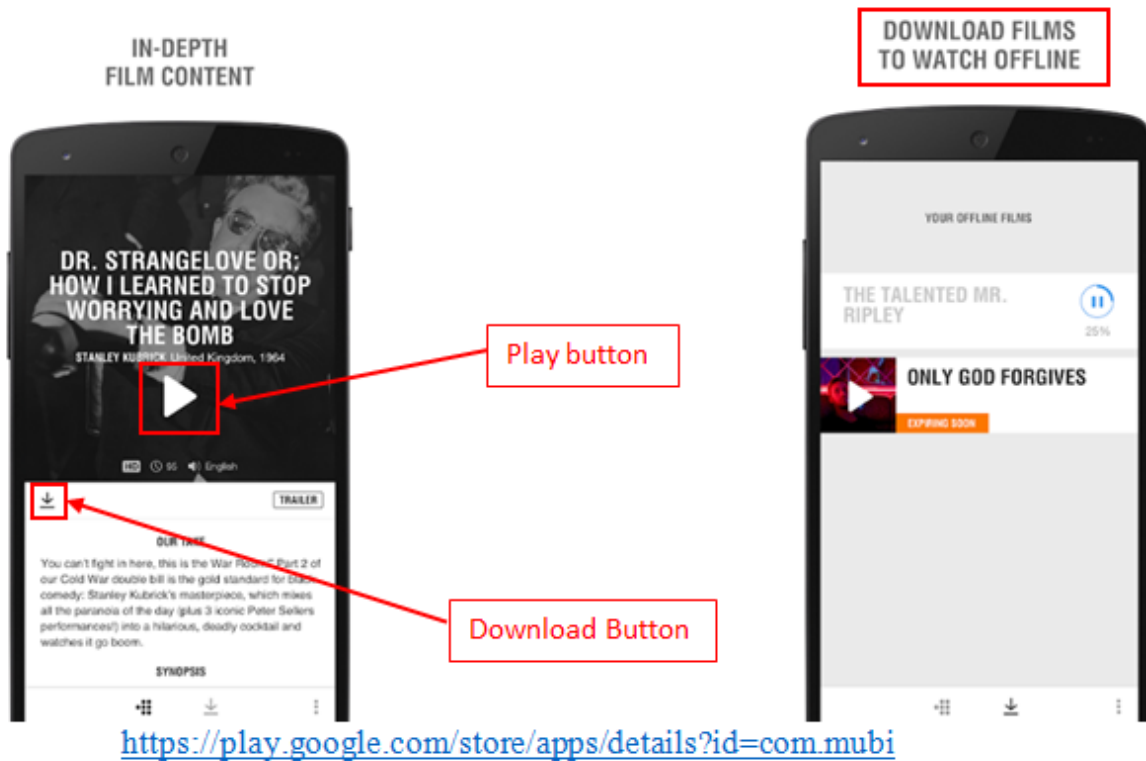
https://mubi.com/privacy_policy

19. The Product provides for both media downloads and/or storage, and media streaming. After successful login, a processor within the Product necessarily determines whether the request received from a customer is a request for storage (e.g., downloading content/movie) or content (e.g., streaming of media content/movie). On information and belief, a user must have to sign up or login first to view media content on MUBI website/mobile application. A user has options to either stream (i.e., content request) or download (i.e., storage request) a movie (i.e., content). Certain aspects of these elements are illustrated in the screen shot below and/or in screen shots provided in connection with other allegations herein.

GET STARTED

- Download the app for free, sign up and start enjoying great films immediately on your Android phone, tablet or TV.
- Download films to your MUBI app on mobile and save for offline watching - Chromecast supported.
- Favourite, rate, review, follow and share films with your friends – Let everyone know that your favourite director is Stanley Kubrick.

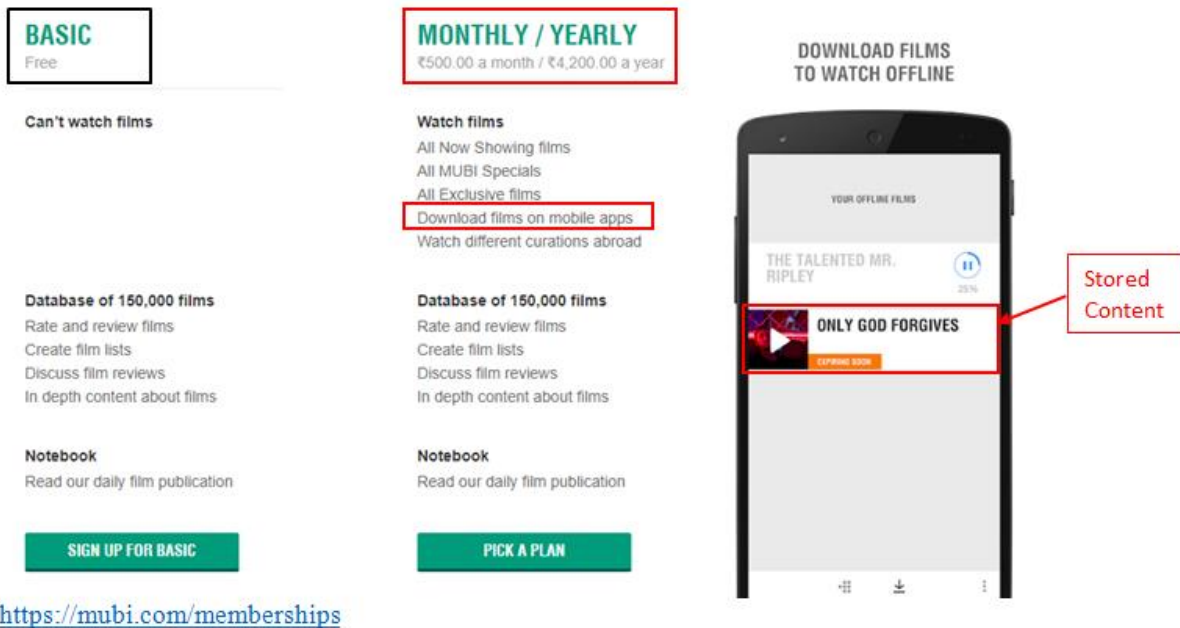
<https://play.google.com/store/apps/details?id=com.mubi>



Get comfortable and **stream** movies on the big screen at home or **download** to your mobile devices for when you're on the go; you won't even notice the passenger on the train trying to watch Dogtooth over your shoulder.

<https://play.google.com/store/apps/details?id=com.mubi>

20. The server must verify that the media content (e.g., specific movie) identified in the media data of the storage request message is available for storage in order to prevent data errors that would result from attempting to store content that is not available for storage (e.g., the server must verify a user's currently subscribed plan as the ability to store video is limited only to the MONTHLY/YEARLY subscription plan, thus media content may not be available for storage if a user is subscribed to BASIC plan). Certain aspects of these elements are illustrated in the screen shots below and/or in screen shots provided in connection with other allegations herein.



21. If a customer requests content (e.g., streaming of MUBI media content or movie), then a processor within the Product necessarily initiates delivery of the content to the customer's device. The server will initiate delivery of the requested media content to the consumer device (e.g., stream movies to a smartphone or tablet or desktop computer) if the request message is a content request message (e.g. request for movie streaming).

22. The media data includes time data that indicates a length of time to store the requested media content (e.g. a user is allowed to store videos for maximum of 48 hours past the films expiry date on MUBI. [On MUBI, each movie is available to stream/download for 30 days. After that, they remove it from their server.]). Certain aspects of these elements are illustrated in the screen shots below and/or in those provided in connection with other allegations herein.

For how long do films I've downloaded on the MUBI iOS or Android app remain available to watch?

If you have downloaded a film on our iOS or Android app to view offline or otherwise, it will remain available to view for an additional 48 hours past the films expiry date.

<https://help.mubi.com/article/147-for-how-long-do-films-i-ve-downloaded-on-the-mubi-ios-or-android-app-remain-available-to-watch>

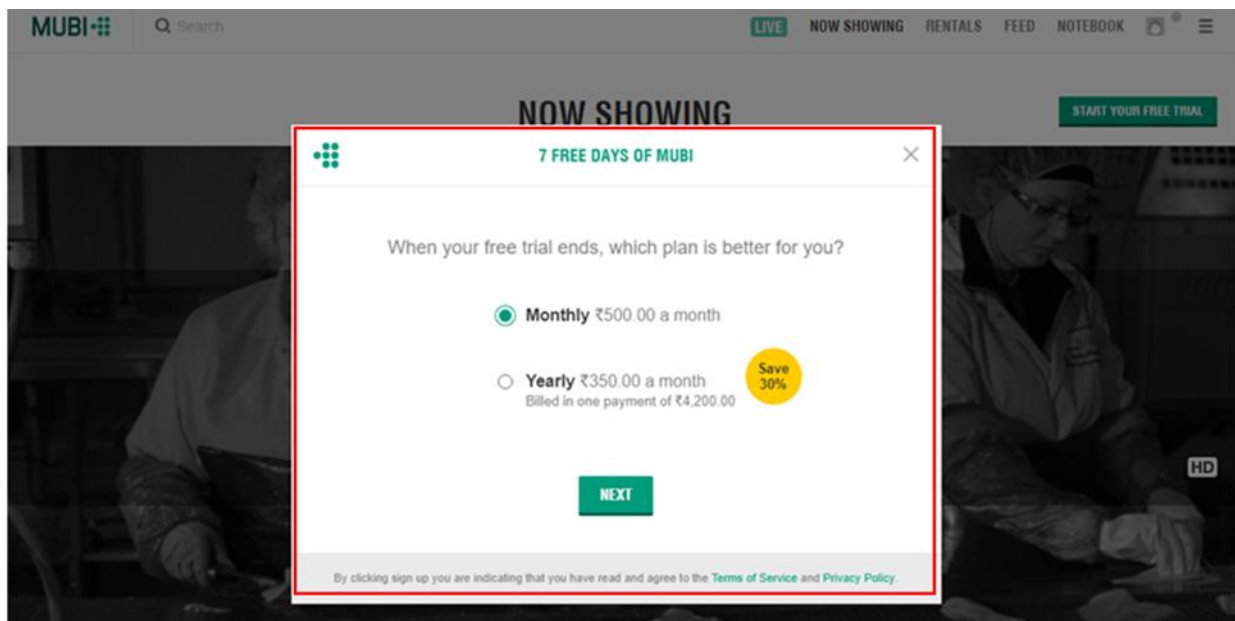
23. The server must first determine whether the requested media content exists prior to initiating delivery in order to prevent data errors that would result from attempting to transmit media content that does not exist (e.g. the server must verify that a particular movie that the user requested has not been expired or removed from the server. Also there is an additional possibility that the same media exists if the user has downloaded it earlier then the movie will be available for additional 48 hours for the user). Certain aspects of these elements are illustrated in the screen shots below and/or in screen shots provided in connection with other allegations herein.

Unlike Netflix and Amazon, MUBI features just 30 films at any time, all available for just 30 days. It has over 8 million registered users.

<https://www.independent.co.uk/arts-entertainment/films/news/mubi-free-subscription-film-students-nfts-a8217831.html>

24. After the processor determines whether the requested media content is available, it determines whether there are restrictions associated with the requested media content (e.g., subscription level etc.). With MUBI, a user can subscribe to two plans (BASIC or MONTHLY/YEARLY) plan. A user can watch MUBI content only if he is subscribed to the MONTHLY/YEARLY plan. Otherwise, a subscription prompting pop up will show on the screen to subscribe to MONTHLY/YEARLY plan. Therefore, a user is restricted to watch content while subscribed to BASIC plan. The MUBI server must check whether there are restrictions associated with the requested media content. Certain aspects of these elements are

illustrated in the screen shots below and/or in screen shots provided in connection with other allegations herein.



Live Demo: Image 2 (subscription screen pop up after play/stream request because of restriction on basic plan)
<https://mubi.com/showing>

25. Defendant's actions complained of herein will continue unless Defendant is enjoined by this court.

26. Defendant's actions complained of herein is causing irreparable harm and monetary damage to Plaintiff and will continue to do so unless and until Defendant is enjoined and restrained by this Court.

27. Plaintiff is in compliance with 35 U.S.C. § 287.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff asks the Court to:

- (a) Enter judgment for Plaintiff on this Complaint on all causes of action asserted herein;
- (b) Enter an Order enjoining Defendant, its agents, officers, servants, employees, attorneys, and all persons in active concert or participation with Defendant who receives notice of the order from further infringement of United States Patent No. 8,856,221 (or, in the alternative, awarding Plaintiff a running royalty from the time of judgment going forward);
- (c) Award Plaintiff damages resulting from Defendant's infringement in accordance with 35 U.S.C. § 284;
- (d) Award Plaintiff pre-judgment and post-judgment interest and costs; and
- (e) Award Plaintiff such further relief to which the Court finds Plaintiff entitled under law or equity.

Dated: February 1, 2019

Respectfully submitted,

Coleman Watson

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